



**Sean Rogan**  
Executive Director

**HOUSING AUTHORITY  
of the County of Los Angeles**

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**Gloria Molina**  
**Mark Ridley-Thomas**  
**Zev Yaroslavsky**  
**Don Knabe**  
**Michael D. Antonovich**  
Commissioners

# ADOPTED

BOARD OF COMMISSIONERS  
HOUSING AUTHORITY

July 16, 2013

The Honorable Board of Commissioners  
Housing Authority of the  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, California 90012

1-H July 16, 2013

*Sachi A. Hamai*  
SACHI A. HAMAI  
EXECUTIVE OFFICER

Dear Commissioners:

**AUTHORIZE THE EXECUTION OF A RELEASE AND SETTLEMENT AGREEMENT WITH OLIVE  
GLEN, LLC AS A CONDITION TO THE DISPOSITION AND DEVELOPMENT AGREEMENT FOR  
THE OLIVE GLEN AFFORDABLE HOUSING DEVELOPMENT IN UNINCORPORATED LA  
PUENTE  
(DISTRICT 1) (3 VOTES)**

**SUBJECT**

This letter recommends approval to authorize the Executive Director to enter into a Release and Settlement Agreement with Olive Glen, LLC pursuant to terms in the Disposition and Development Agreement (DDA), and Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing secured by the property for the Olive Glen single family for-sale housing development (Development) located at 135 S. 3rd Street in unincorporated La Puente (Property).

**IT IS RECOMMENDED THAT THE BOARD:**

1. Authorize the Executive Director or his designee to execute the Release and Settlement Agreement and Full Reconveyance of the Deed of Trust in connection with the Property.
2. Find that execution of the Release and Settlement Agreement is not subject to the California Environmental Quality Act (CEQA) because it is not defined as a project under CEQA and does not have the potential for causing a significant effect on the environment.

**PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

The purpose of this action is to approve the Release and Settlement Agreement between the Housing Authority of the County of Los Angeles (Housing Authority) and Olive Glen, LLC

(Developer), to satisfy the Developer's payment obligations pursuant to the DDA, Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing, dated as of September 27, 2010 (Deed of Trust) that required the construction of affordable housing for low-income homebuyers.

The Property is subject to a condemnation action by the Alameda Corridor East (ACE) Construction Authority for the purpose of constructing a grade separation project at the intersection of Puente Avenue/Workman Mill Road and the Union Pacific Railroad in the City of Industry and the unincorporated La Puente area. By approving the Release and Settlement Agreement with the Developer, the Housing Authority will recoup the principal balance on the land acquisition loan associated with the Property, obtain accrued interest on the outstanding principal loan balance, repay HOME Investment Partnerships program (HOME) funds, and recover certain Housing Authority costs associated with the loss of the Development.

### **FISCAL IMPACT/FINANCING**

There is no impact on the County general fund.

The Housing Authority provided a land acquisition loan of \$600,000 to the Developer, which was anticipated to convert to secondary mortgages of up to \$100,000 per home for qualified buyers upon the completion of the Development. The secondary mortgages would have carried 45-year zero interest deferred payment terms, evidenced by a loan agreement and promissory note and secured by a subordinated deed of trust in favor of the Housing Authority. Because the principal amount of the loan was primarily funded with HOME funds, pursuant to federal regulations the principal must be repaid if the Development is not completed.

### **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

On March 14, 2006, your Board authorized the Housing Authority to enter into a DDA with the Developer to help finance the development and sale of 26 single family homes, 14 of which were to be set-aside for low-income homebuyers. Pursuant to the terms of the DDA, the Housing Authority had an affordability covenant to build low income housing on the Property (Covenant).

Subsequently, on August 31, 2010, your Board approved an amendment to the DDA to reduce the obligation for affordable units from fourteen (14) to six (6) because of the instability of the housing market at the time. Additionally, the Developer's obligation to repay the land acquisition loan was reduced from \$1.4 million to \$600,000.

As security for the sale of the Property to the Developer, the Housing Authority recorded a Deed of Trust secured by the Property.

In July 2012, the Developer was approached by ACE for the potential acquisition of the Property, and ACE and the Developer attempted to negotiate for the voluntary purchase of the Property in order to avoid the need for a condemnation action. However, despite negotiations in November 2012, ACE approved and adopted a Resolution of Public Necessity for the Property as the first step in acquiring the Property through eminent domain.

While continuing negotiations for the purchase amount, in December 2012, ACE and the Developer executed a Possession and Use Agreement granting ACE a right of entry to the Property for purposes of constructing the grade separation project. In return, ACE deposited \$4,000,000 into an escrow account representing the fair market value of the property and based upon an appraisal

commissioned by ACE. In response to the possession and use agreement, the Developer requested a payoff demand and a full reconveyance of the Deed of Trust encumbering the Property.

Housing Authority staff reviewed the Developer's request and determined that an affordable housing covenant, included in the Deed of Trust, was recorded against the Property, and a valuation of the covenant itself was necessary. Housing Authority staff consulted with a valuation consultant to calculate the payoff demand which included the loan payoff amount, compensation for the Covenant and repayment of costs associated with the unsuccessful completion of the Development.

Additionally, the Housing Authority and the Developer negotiated a Release and Settlement Agreement that would release each other from claims against one another, and settle the Developer's loan repayment obligation pursuant to the DDA and Deed of Trust. By approving this Release and Settlement Agreement with the Developer, the Housing Authority would be excluded from ACE's potential condemnation lawsuit against the Developer to obtain the rights to the Property.

The terms of the Release and Settlement Agreement are as follows:

- Repayment of loan principal of \$600,000.
- Accrued interest on loan principal of \$133,500.
- Recovery of Housing Authority costs associated with the project, attorney's fees and the estimated value of the affordability covenant totaling \$250,000.
- Total settlement of \$983,500.

The recovery of costs associated with the project and the estimated affordability covenant will assist the Housing Authority in funding additional projects to build affordable housing.

## **ENVIRONMENTAL DOCUMENTATION**

This action is exempt from the provisions of the National Environmental Policy Act pursuant to 24 Code of Federal Regulations, Part 58, Section 58.34 (a)(3), because it involves administrative activities that will not have a physical impact on or result in any physical changes to the environment. The action is not subject to the provisions of CEQA pursuant to State CEQA Guidelines 15060(c)(3) and 15378, because it is not defined as a project under CEQA and does not have the potential for causing a significant effect on the environment.

## **IMPACT ON CURRENT SERVICES (OR PROJECTS)**

The recommended action will cause repayment of the loan principal, accrued interest, and recovery of the Housing Authority's costs related to the Olive Glen Development, including the loss of the affordability covenants. These funds will be used for other projects to create affordable housing.

The Honorable Board of Supervisors  
7/16/2013  
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Respectfully submitted,

A handwritten signature in black ink, appearing to read "Sean Rogan", followed by a horizontal line.

SEAN ROGAN  
Executive Director

SR:da

Enclosures

## **Release and Settlement Agreement**

This Release and Settlement Agreement ("Agreement") is made and entered into as of July \_\_, 2013, by and between Olive Glen, LLC ("Olive Glen") and the Housing Authority of the County of Los Angeles ("HACoLA"). The Alameda Corridor East Authority ("ACE") has made a finding of necessity to take by Eminent Domain the property commonly known as: 135 South- 3rd Street, in the unincorporated La Puente area of the County of Los Angeles, State of California 91746 (APN Nos. 8112-024-001, 8112-024-004, 8112-024- 005, 8112-024-006, 8112-024-007, 8112-024-008, 8112-024-009, and SI,27024-010) ("Property") which is currently owned by Olive Glen.

Olive Glen and HACoLA entered into a Disposition and Development Agreement, dated as of March 16, 2006, as amended ("DDA"). Pursuant to the terms of the DDA, HACoLA has claimed a Covenant in the low-income housing being built on the Property ("Covenant"). As security for the sale of the Property to Olive Glen, HACoLA recorded a Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing, dated as of September 27, 2010 ("Deed of Trust"), secured by the Property. The Deed of Trust was recorded in the Office of the County Recorder of Los Angeles County as Instrument No. 20110031422.

ACE is negotiating with Olive Glen for the voluntary purchase of the Property in order to avoid the need for a condemnation/Eminent Domain action. In connection with the ACE purchase of the Property, HACoLA contends, solely for the purpose of this Agreement, that HACoLA's interests in the Covenant and the Property are as follows:

Principal Loan Amount:	\$600,000.00
Accrued Interest:	\$133,500.00
Costs/Covenant:	\$250,000.00
TOTAL:	\$983,500.00

HACoLA agrees to accept the amount of nine hundred eighty three thousand five hundred dollars (\$983,500.00) ("Payment Amount"), as payment in full from the sums currently being held at First American Title Escrow ("Escrow Company") deposited by ACE. The Escrow Company is prepared to pay HACoLA the Payment Amount, and the check for the Payment Amount should be made payable to the Housing Authority of the County of Los Angeles. HACoLA shall deliver to the Escrow Company a Full Reconveyance of the Deed of Trust ("Reconveyance"), which shall only be recorded by the Escrow Company with the Los Angeles County Recorder at such time as HACoLA has received and successfully negotiated the Payment Amount.

Upon payment of the Payment Amount and the recording of the Reconveyance, HACoLA does hereby fully and forever release, discharge and exonerate Olive Glen, its respective subsidiaries, successors, predecessors, affiliates, assigns, officers, directors, employees, agents, servants, and attorneys with respect to any and all claims that HACoLA has, may have or later acquire against Olive Glen in connection with the

Property, the DDA, the Deed of Trust, or any other documents executed between Olive Glen and HACoLA related to the Property. HACoLA acknowledges that after it has negotiated the Payment Amount that Olive Glen continues ownership of the Property and full right to negotiate with ACE, and this Agreement is intended to terminate any and all claims HACoLA claims to have in the Property (including but not limited to the Covenant claimed by HACoLA, the Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing referred to above).

Olive Glen, upon recording of the Reconveyance, does hereby fully and forever release, discharge and exonerate HACoLA and its respective subsidiaries, successors, predecessors, affiliates, assigns, officers, directors, employees, agents, servants, and attorneys with respect to any and all claims that Olive Glen has, may have or late acquire against HACoLA in connection with the Property, the DDA, the Deed of Trust, or any other documents executed between Olive Glen and HACoLA related to the Property.

HACoLA and Olive Glen each waives against the other all of its rights that it may have under the provisions of Section 1542 of the California Civil Code which reads as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor".

HACoLA and Olive Glen, by their respective signatures below, declare that they understand the full nature, extent and import of Section 1542 of the California Civil Code and have been so advised by their attorney(s).

The signatures on this Agreement are authorized and the action taken by HACoLA and Olive Glen has been approved by all necessary political entities and members.

DATED: July \_\_, 2013      **Housing Authority of the County of Los Angeles ("HACoLA")**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**Olive Glen, LLC ("Olive Glen")**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Recording Requested By:  
Housing Authority of the  
County of Los Angeles

When recorded mail document to:  
OLIVE GLEN LLC  
c/o Abell-Helou Homes  
148 W. Orange St.  
Covina, CA 91723

APN NO. 8112-024-001 and 8112-024-010

Above Space for Recorder's Use Only

SUBSTITUTION OF TRUSTEE AND FULL RECONVEYANCE

Whereas, Olive Glen, LLC, a California limited liability company was the Original Trustor, North American Title Company, the original Trustee, and Housing Authority of the County of Los Angeles, a public body corporate and politic, original beneficiary, under that certain Deed of Trust dated September 27, 2010, and recorded January 6, 2011, as Instrument No. 20110031422. Official Records of the County of Los Angeles State of California describing land therein as provided on Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, the undersigned present beneficiary desires to substitute a new Trustee under said Deed of Trust in place and instead of North American Title Company.

Now therefore, the undersigned hereby substitutes itself as Trustee under said Deed of Trust and does hereby reconvey, without warranty, to the person or persons legally entitled hereto, the Estate now held by him thereunder. Whenever the context hereof so requires, the masculine gender includes the feminine and/or neuter, and the singular numbers includes the plural. The undersigned hereby accepts said appointment as trustee under the above deed of trust, and as successor trustee, and pursuant to the request of said owner and holder and in accordance with the provisions of said deed of trust, does hereby RECONVEY WITHOUT WARRANTY, TO THE PERSONS LEGALLY ENTITLED THERETO, all the estate now held by it under said deed of trust.

Housing Authority of the County of Los Angeles,  
a public body corporate and politic

By: \_\_\_\_\_

Its: \_\_\_\_\_  
BENEFICIARY / NEW TRUSTEE

Dated: July , 2013

STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES } SS.

On July \_\_\_, 2013, before me, \_\_\_\_\_ a Notary Public, personally appeared \_\_\_\_\_ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/their/her authorized capacity (ies), and that by his/her/their signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

**WITNESS my hand and official seal.** **NOTARY SEAL**

Signature \_\_\_\_\_



## **Exhibit “A”**

### **LEGAL DESCRIPTION**

Real property in the City of Los Angeles, County of Los Angeles, State of California, described as follows:

Lots 1 through 7, inclusive, of Tract No. 53982, in the City of Los Angeles, County of Los Angeles, as shown on map recorded in Book 1330, Pages 41 through 44, inclusive, in the office of the county recorder of said county.

**APN: 8112-024-001 and 8112-024-010**